

III. REMARKS/ARGUMENTS

A. Response to Rejections Based on 35 U.S.C. § 102(b)

General Remarks

The Examiner has indicated that claims 24, 26, and 30-32 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Richter (3026651); and that claims 24, 31-32 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Richter [sic]. It is believed that the reference cited in the latter rejections is in error as the reference discussed is Higson (4736551).

New Claim Limitations

Applicant, by this Amendment amends claim 24 in accordance with the Examiner's indications. In this amendment, Applicant has added language to highlight the differences between both of the cited references. Most particularly, Applicant has included claim language showing that the center connector of the present invention is actually a multipurpose device. As the claim makes clear, the center connector "is disposed in the said center of said polygonal member for use in the construction process of a domical structure and for use after construction as means to capture and retain insulating material, wallboard, paneling, wall covering, acoustic tiles, and/or a combination of the same against said interior side of said polygonal member, and whereby said multipurpose center connector serves as a connector for suspending said module from an overhead hoist during construction so that said module may be combined with a plurality of said modules and assembled into a domical structure in which said modules are connected at their respective angled sides, the assembly proceeding in courses from the top down, and wherein no module requires support during construction independent of the overhead hoist.

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Applicable Law

Section 102(b) provides that “a person shall be entitled to a patent unless the invention was patented or described in a printed publication ... more than one year prior to the date of the application.” 35 U.S.C. §102(b) (2000). Accordingly, a rejection based on anticipation requires that the “four corners” of a single, prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See *Atlas Powder Co. v. Ireco, Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). A long line of cases makes clear that a prior art reference anticipates a claim only if the reference discloses, either expressly or inherently, every limitation of the claim. ... “[A]bsence from the reference of any claimed element negates anticipation.” *Row v. Dror*, 42 USPQ2d 1550, 1553 (Fed. Cir. 1997) quoting *Kloster Speedsteel AB v. Crucible, Inc.*, 230 USPQ 81, 84 (Fed. Cir.) 1986).

Further, “Invalidity for anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference. ... There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.” *Scripps Clinic & Research Foundation v. Genentech Inc.*, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

In the instant case, neither Richter nor Higson shows a building module having a center connector adapted for use in constructing a dome with an overhead hoist in courses proceeding top down, nor do they show a center connector that could be employed after construction to secure auxiliary elements, such as wallboard, acoustical tiles, insulation, paneling, and the like. All of these functions are included in claim 24, as amended. Accordingly, the center connector is defined not only by what it is, but also by what it does, and as the court has stated, “there is nothing inherently wrong in defining something by what it does rather than what it is.” *In re*

Echerd, 176 USPQ 321 (CCPA 1973). Furthermore, the new functions are novel in view of the prior art; that is, they are not inherently present in the prior art.

More pertinently, neither Richter nor Higson actually shows a module having a center connector. The term "module," as used in the present application, and as commonly used, is a singular unit which combines with others in a set of separate parts to form a completed whole (i.e., a dome) In view of this use, it would be more accurate to say that Richter and Higson show a plurality of modules combined with some kind of coupling device to form a larger structural unit for a building, but the center connector, if any there be, in either Richter or Higson does not appear in the discrete units disclosed and described. Rather, Richter (figures 3a, 4, and 11) shows a tetrahedral panel, having no center connector whatsoever, that can be combined or connected to five other panels with a rosette like gusset 20. Not only is this not a center connector of a module, as described and claimed in present claim 24, but it could not function as means for connection to an overhead hoist nor as means for holding materials after construction.

Higson shows a triangular structural unit, also having no center connector whatsoever, which can be joined to other triangular units by a plurality of locking devices 22 (see FIGS. 7-8). The locking devices are installed at the vertices of the units and form a substantially circular central area in the combined units, which is capped off by caps (78, 80), but, again, the locking devices and caps do not comprise a center connector of a module for use in connecting the module to an overhead hoist or for holding materials after manufacture; rather, it is only the structural means to connect the plurality of panels at their approximated vertices. The present invention eliminates the need to combine discrete panels to form a larger structural unit. Thus, the triangular unit shown in Higson cannot be understood to be the equivalent of the module of the present invention as claimed in amended claim 24.

For these reasons, it is respectfully submitted that claim 24, as amended, is novel in view of both Higson and Richter, and that claim 24 and claims depending therefrom are in condition

for allowance. Such allowance is thus respectfully requested.

C. Response to Rejections Based on 35 U.S.C. § 103(a)

The Examiner has further indicated that claims 25 and 28 are rejected under 35 U.S.C. 103(a) as unpatentable over Richter; and that claim 33 is rejected under 35 U.S.C. 103(a) as unpatentable over Higson.

Claims 25, 28, and 33, all depending from claim 24. In view of the amendments to claim 24, as noted, it is respectfully submitted that neither Richter nor Higson are a proper basis for a Section 103(a) rejection. "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780, 1783-1784 (Fed. Cir. 1992). Neither Richter nor Higson suggest the limitations of the present invention with respect to either the placement nor the function of the center connector. Accordingly, it is respectfully submitted that the module of amended claim 24 and claims depending therefrom is not obvious in view of either Richter or Higson, and that claim 24 is therefore in condition for allowance. Such allowance is therefore earnestly requested.

IV. CONCLUSION


In view of these amendments and comments it is believed that each of the presently pending claims in this application is in condition for immediate allowance, and such allowance is therefore respectfully requested. The Examiner is invited to call Applicant's undersigned attorney if, in the opinion of the Examiner, a telephone conference will in any way expedite prosecution of this application.

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Respectfully Submitted,

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